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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/582,686	08/21/2000	Wolfgang Peveling	10191/1389	6761
26646	7590	12/21/2004	EXAMINER	
KENYON & KENYON ONE BROADWAY NEW YORK, NY 10004			KNOLL, CLIFFORD H	
			ART UNIT	PAPER NUMBER
			2112	
DATE MAILED: 12/21/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/582,686

Applicant(s)

PEVELING ET AL.

Examiner

Clifford H Knoll

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 October 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 23-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 23-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This Office Action is responsive to communication filed 10/04/04. Claims 1-22 have been cancelled. Currently, claims 23-32 are pending.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

1. *Claims 23-32 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.*

The previous Office Action, mailed 4/30/04, requested documentation on the CAN transmission inhibit function (CANSTOP) of the real-time capable serial bus system, as described in the specification (p. 1, lines 10-15), and also requested information on the transmission inhibiting device, admittedly known to Applicant, as set forth in the specification (p. 1, line 33 – p. 2, line 12).

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Applicant has communicated (filed 10/04/04) that the "requested information cannot be readily obtained by Applicants at the present" (p. 6, lines 7-8). However, Applicant has previously established this subject matter as the basis of the invention; specifically, the Applicant states in the specification, "the present invention and its underlying problem are explained with regard to a network component transmission inhibiting device of a network that is located on board a motor vehicle, namely the CAN transmission inhibit function (CANSTOP) of the real-time capable serial bus system "Controller Area Network" (CAN)" (p. 1, lines 10-15). Examiner has been unable to find this information in the specification, nor has the Examiner found any discussion of a transmission inhibit function (CANSTOP) upon detailed examination of documentation alluded-to by the Applicant (CAN Specification, Version 2.0 (attached)). Examiner concludes that this subject matter as disclosed is insufficient to enable one of ordinary skill in the art to make and use the invention as claimed.

Under the disclosure requirements of §112, the burden rests on the Applicant who chooses to rely upon general knowledge in art to make it clear to one of ordinary skill in the art that the Applicant possessed subject matter claimed. The Applicant has failed to either set forth information in the specification or incorporate it by reference to a reasonably accessible source. The Examiner's efforts to find the requested subject matter, and the Applicant's admission that the information is not readily available leads the Examiner to conclude that the Applicant was not in possession of the claimed subject matter.

For the purposes of examination, the Examiner gives the broadest reasonable construction to the claim language. Lacking the requested information, it is necessary for the Examiner to broadly interpret any recitation that relies on this subject matter.

Claim Rejections - 35 USC § 102

2. *Claims 23-31 are rejected under 35 U.S.C. 102(b) as being anticipated by Smith (US 4642636).*

Regarding claims 23 and 27, Smith discloses applying a logical signal to the first node from the inhibit device (e.g., Fig. 3, "47"), transmitting a test signal message onto the transmission line at the transmission port (e.g., Fig. 3, "25"), analyzing a feedback signal at the feedback port (e.g., Fig. 5).

Regarding claim 24, Smith also discloses testing the inhibit function by analyzing a signal with an interrupt function that can be controlled (e.g., col. 7, lines 21-22).

Regarding claim 25, Smith also discloses the feedback port is scannable and the inhibit function is tested by analyzing a signal at the scanned feedback port (e.g., col. 7, lines 11-13).

Regarding claim 26, Smith also discloses closing a switch between the first node and a supply potential to apply the logic signal (e.g., Fig. 3, "41").

Regarding claim 28, Smith also discloses a resistance between the first node and the transmission port (e.g., Fig. 3, "39").

Regarding claim 29, Smith also discloses generating an inhibit signal and a switching device closed in response to the inhibit signal (e.g., Fig. 3, "47"), the device between a supply potential and the first node (e.g., Fig. 3, "49").

Regarding claims 30 and 31, Smith also discloses the feedback line is coupled to the second node of the transmission line (e.g., Fig. 3, "25").

Claim Rejections - 35 USC § 103

3. *Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Smith in view of standard bus protocols, as evidenced by Hanf (US 6115831).*

Regarding claim 32, Smith also discloses the application in a plant monitoring system (e.g., col. 3, lines 20-24), but does not expressly mention the network component including a CAN controller and CAN receiver connected to a CAN bus; however, Examiner takes Official Notice that the use of the CAN controller, receiver, and bus are quite commonplace in a plant monitoring system such as that of Smith, as evidenced by Hanf. Hanf discloses the CAN bus, and teaches the advantageous use of the CAN bus in a control setting (e.g., col. 1, lines 12-20). It would have been obvious to combine a standard bus to Smith, because the CAN bus has standard application in a monitoring situation such as the system of Smith. Therefore, it would have been obvious to one of ordinary skill in the art to combine Smith with the CAN bus to obtain the claimed invention.

Response to Arguments

Applicant's arguments with respect to the previous claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

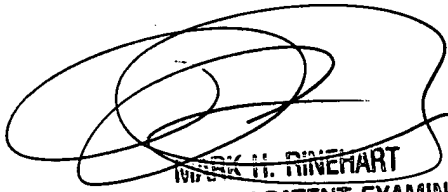
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clifford H Knoll whose telephone number is 571-272-3636. The examiner can normally be reached on M-F 0630-1500.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark H Rinehart can be reached on 571-272-3632. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

chk



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